

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	In Proceedings Under Chapter 13
	)	Honorable Donald R. Cassling
Eric C. Thomas,	)	
	)	
	)	Case No. 19 B 11563
Debtor.	)	

**NOTICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

**TO: DEBTOR, DEBTOR'S COUNSEL, CHAPTER 13 TRUSTEE:**

Please take notice that on September 19, 2019, at 9:30 a.m. or as soon thereafter as the same may be heard, the undersigned will present to the Honorable Donald R. Cassling (or any other judge who may be presiding in his or her place), in Courtroom 619, Everett M. Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, Illinois the attached motion for relief from the automatic stay.

RIEZMAN BERGER, P.C.

**/s/ Kathryn A. Klein**

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

COMES NOW Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust ("Secured Creditor"), by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d), for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtor filed a voluntary petition pursuant to Chapter 13 of the United States Bankruptcy Code on April 22, 2019.

2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.

3. On October 2, 1998, Borrower, Eric C. Thomas, executed and delivered a Promissory Note ("Note") and a Mortgage ("Mortgage") securing payment of the Note in the principal amount of \$69,800.00 to FT Mortgage Companies d/b/a Sunbelt National Mortgage, a Kansas Corporation. The Mortgage was recorded on October 8, 1998 in the Public Records of Cook County, Illinois. The loan was transferred to Secured Creditor. True and accurate copies of documents establishing a perfected security interest and ability to enforce the terms of the Note are

attached hereto as Composite Exhibit "A." The documents include copies of the Note with any required indorsements, Recorded Mortgage, Assignment(s) of Mortgage, and any other applicable documentation.

4. The mortgage provides Secured Creditor a lien on the real property located in Cook County, Illinois, and legally described as stated in Composite Exhibit "A". This property is located at the street address of: 8735 South Winchester Avenue, Chicago, IL 60620.

5. The terms and conditions of the Note and Mortgage are in default due to Debtor's failure to maintain post-petition payments to Secured Creditor from May 1, 2019 and thereafter, totaling \$3,324.56.

6. Secured Creditor is due the amount of \$67,211.36, good through September 6, 2019. Documentation supporting this claim is attached hereto as Exhibit "B".

7. According to the Cook County Assessor valuation, the value of the property is \$89,810.00. *See* Exhibit "C" which is attached hereto and permissible as a property valuation under Fed. R. Evid. 803(8).

8. Secured Creditor's security interest in the subject property is being significantly jeopardized by Debtor's failure to comply with the terms of the subject loan documents while Secured Creditor is prohibited from pursuing lawful remedies to protect such interest. Secured Creditor has no protection against the erosion of its collateral position and no other form of adequate protection is provided.

9. If Secured Creditor is not permitted to enforce its security interest in the collateral or be provided with adequate protection, it will suffer irreparable injury, loss, and damage.

10. Secured Creditor respectfully requests the Court grant it relief from the Automatic Stay in this cause pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Secured Creditor for its interest in the above stated collateral. The value of the collateral is insufficient in and of itself to provide adequate protection which the Bankruptcy Code requires to be provided to the Secured Creditor. Secured Creditor additionally seeks relief from the Automatic Stay pursuant to §362(d)(2) of the Bankruptcy Code, as the collateral is unnecessary to an effective reorganization of the Debtor's assets.

11. Once the stay is terminated, the Debtor will have minimal motivation to insure, preserve, or protect the collateral; therefore, Secured Creditor requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).

12. Secured Creditor has incurred court costs and attorney's fees in this proceeding and will incur additional fees, costs and expenses in foreclosing the Mortgage and in preserving and protecting the property, all of which additional sums are secured by the lien of the mortgage. Secured Creditor seeks an award of its reasonable attorneys' fees and costs, or alternatively, leave to seek recovery of its reasonable attorneys' fees and costs in any pending or subsequent foreclosure proceeding.

WHEREFORE, Secured Creditor, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit Secured Creditor to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to waive the 14-day stay imposed by Fed.R.Bankr.P. 4001(a)(3), to

seek recovery of its reasonable attorneys' fees and costs incurred in this proceeding, and to any such further relief as this Honorable Court deems just and appropriate.

Respectfully submitted,

RIEZMAN BERGER, P.C.

**/s/ Kathryn A. Klein**

Kathryn A. Klein, #06199235  
7700 Bonhomme, 7th Floor  
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Attorneys for Secured Creditor

**PROOF OF SERVICE**

The undersigned states that I served the Motion for Relief from the Automatic Stay, Notice of said Motion, and proposed Order, all as attached, upon the Debtors by postage prepaid, in the United States Mail, by first-class mail and upon the other parties named below via electronic means, on September 11, 2019.

Eric C. Thomas  
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Chicago IL 60620

Debtor

David M. Siegel  
790 Chaddick Drive  
Wheeling IL 60090

Attorney for Debtor

Tom Vaughn  
55 E. Monroe St., Suite 3850  
Chicago IL 60603

Chapter 13 Trustee

Office of the United States Trustee  
219 S. Dearborn St., Rm. 873  
Chicago, IL 60604

**/s/ Kathryn A. Klein**